

timely a correct payee statement required under section 6050W(f), see section 6722 and the associated regulations. See section 6724 and the associated regulations for the waiver of a penalty if failure is due to reasonable cause and is not due to willful neglect.

(j) *Effective/applicability date.* The rules in this section apply to returns for calendar years beginning after December 31, 2010.

[T.D. 9496, 75 FR 49828, Aug. 16, 2010]

§ 1.6050W-2 Electronic furnishing of information statements for payments made in settlement of payment card and third party network transactions.

(a) *Electronic furnishing of statements—(1) In general.* A person required by section 6050W to furnish a written statement (furnisher) regarding payments made in settlement of payment card and third party network transactions to the person to whom it is required to be furnished (recipient) may furnish the statement in an electronic format in lieu of a paper format. A furnisher who meets the requirements of paragraphs (a)(2) through (a)(5) of this section is treated as furnishing the required statement.

(2) *Consent—(i) In general.* The recipient must have affirmatively consented to receive the statement required under section 6050W in an electronic format or, in the alternative, have previously consented to receive other federal tax statements in an electronic format from the furnisher. The consent may be made electronically in any manner that reasonably demonstrates that the recipient can access the statement in the electronic format in which it will be furnished to the recipient. Alternatively, the consent may be made in a paper document if it is confirmed electronically. Consents must be kept at all times available for inspection by the Internal Revenue Service. Recipients currently receiving electronic communications from the furnisher may elect to receive the statement required under section 6050W in a paper document in lieu of an electronic format. The election to receive a paper document may be made by notifying the furnisher electronically or in a paper document.

(ii) *Withdrawal of consent.* The consent requirement of paragraph (a)(2)(i) of this section is not satisfied if the recipient withdraws the consent to receive electronic statements and the withdrawal takes effect before the statement is furnished. The furnisher may provide that a withdrawal of consent takes effect either on the date it is received by the furnisher or on a subsequent date. The furnisher may also provide that a request for a paper statement will be treated as a withdrawal of consent.

(iii) *Change in hardware or software requirements.* If a change in the hardware or software required to access the statement creates a material risk that the recipient will not be able to access the statement, the furnisher must, prior to changing the hardware or software, provide notice to the recipient. The notice must describe the revised hardware and software required to access the statement and inform the recipient that a new consent to receive the statement in the revised electronic format must be provided to the furnisher. After implementing the revised hardware and software, the furnisher must obtain from the recipient, in the manner described in paragraph (a)(2)(i) of this section, a new consent or confirmation of consent to receive the statement electronically.

(iv) *Examples.* The following examples illustrate the rules of this paragraph (a)(2):

Example 1. Recipient R has consented to receive the statements required under section 6041 in electronic format from Furnisher F. F has retained R's consent and keeps it available for inspection by the IRS. F may furnish to R the statement required under section 6050W in electronic format without securing an affirmative consent from R with respect to the statements required under section 6050W.

Example 2. Recipient R has not consented to receive any electronic federal income tax statements from Furnisher F. F may not furnish to R the statements required under section 6050W unless F first secures from R a consent to receive those statements in electronic format in accordance with the requirements of paragraphs (a)(2) through (a)(5) of this section.

Example 3. Furnisher F sends Recipient R a letter stating that R may consent to receive statements required by section 6050W(f) electronically on a website instead of in a paper

format. The letter contains instructions explaining how to consent to receive the statements electronically by accessing the website, downloading the consent document, completing the consent document, and e-mailing the completed consent back to F. The consent document posted on the website uses the same electronic format that F uses to furnish statements electronically. R reads the instructions and submits the consent in the manner provided in the instructions. R has consented to receive the statements electronically in the manner described in paragraph (a)(2)(i) of this section.

Example 4. Furnisher F sends Recipient R an e-mail stating that R may consent to receive statements required by section 6050W(f) electronically instead of in a paper format. The e-mail contains an attachment instructing R how to consent to receive the statements electronically. The e-mail attachment uses the same electronic format that F uses to furnish statements electronically. R opens the attachment, reads the instructions, and submits the consent in the manner provided in the instructions. R has consented to receive the statements electronically in the manner described in paragraph (a)(2)(i) of this section.

Example 5. Furnisher F posts a notice on its website stating that Recipient R may receive statements required by section 6050W(f) electronically instead of in a paper format. The website contains instructions on how R may access a secure web page and consent to receive the statements electronically. By accessing the secure web page and giving consent, R has consented to receive the statements electronically in the manner described in paragraph (a)(2)(i) of this section.

(3) *Required disclosures*—(i) *In general.* Prior to, or at the time of, a recipient's consent, the furnisher must provide to the recipient a clear and conspicuous disclosure statement containing each of the disclosures described in paragraphs (a)(3)(ii) through (a)(3)(viii) of this section.

(ii) *Paper statement.* The recipient must be informed that the statement will be furnished on paper if the recipient does not consent to receive it electronically.

(iii) *Scope and duration of consent.* The recipient must be informed of the scope and duration of the consent. For example, the recipient must be informed whether the consent applies to statements furnished every year after the consent is given until it is withdrawn in the manner described in paragraph (a)(3)(v)(A) of this section or only to the statement required to be furnished

on or before the January 31st immediately following the date on which the consent is given.

(iv) *Post-consent request for a paper statement.* The recipient must be informed of any procedure for obtaining a paper copy of the recipient's statement after giving the consent described in paragraph (a)(2)(i) of this section and whether a request for a paper statement will be treated as a withdrawal of consent.

(v) *Withdrawal of consent.* The recipient must be informed that—

(A) The recipient may withdraw a consent by writing (electronically or on paper) to the person or department whose name, mailing address, telephone number, and e-mail address is provided in the disclosure statement;

(B) The furnisher will confirm the withdrawal and the date on which it takes effect in writing (either electronically or on paper); and

(C) A withdrawal of consent does not apply to a statement that was furnished electronically in the manner described in this paragraph (a) before the date on which the withdrawal of consent takes effect.

(vi) *Notice of termination.* The recipient must be informed of the conditions under which a furnisher will cease furnishing statements electronically to the recipient.

(vii) *Updating information.* The recipient must be informed of the procedures for updating the information needed by the furnisher to contact the recipient. The furnisher must inform the recipient of any change in the furnisher's contact information.

(viii) *Hardware and software requirements.* The recipient must be provided with a description of the hardware and software required to access, print, and retain the statement, and the date when the statement will no longer be available on the Web site.

(4) *Format.* The electronic version of the statement must contain all required information and comply with applicable revenue procedures relating to substitute statements to recipients.

(5) *Notice*—(i) *In general.* If the statement is furnished on a website, the furnisher must notify the recipient that the statement is posted on a website. The notice may be delivered by mail,

electronic mail, or in person. The notice must provide instructions on how to access and print the statement. The notice must include the following statement in capital letters, "IMPORTANT TAX RETURN DOCUMENT AVAILABLE." If the notice is provided by electronic mail, the foregoing statement must be on the subject line of the electronic mail.

(ii) *Undeliverable electronic address.* If an electronic notice described in paragraph (a)(5)(i) of this section is returned as undeliverable, and the correct electronic address cannot be obtained from the furnisher's records or from the recipient, then the furnisher must furnish the notice by mail or in person within 30 days after the electronic notice is returned.

(b) *Effective/applicability date.* The rules in this section apply to returns for calendar years beginning after December 31, 2010.

[T.D. 9496, 75 FR 49833, Aug. 16, 2010]

§ 1.6052-1 Information returns regarding payment of wages in the form of group-term life insurance.

(a) *Requirement of reporting—(1) In general.* Every employer, who during any calendar year provides any one of his employees remuneration for services in the form of group-term life insurance on the life of such employee any part of the cost of which is to be included in such employee's gross income as provided in section 79(a), shall make a separate return on Form W-2 with respect to each such employee for such year which includes the following information:

(i) Name, address, and identifying number of the employer;

(ii) Name, address, and social security number of the employee; and

(iii) Total amount includible in the employee's gross income by reason of the provisions of section 79(a), computed as if each employee reported his income on the basis of a calendar year (determined as if the employer making such return is the only employer paying the employee remuneration in the form of group-term life insurance on his life which is includible in his gross income under section 79(a)).

Returns on Form W-2 required to be filed pursuant to the provisions of this section shall be transmitted by Form W-3. In a case where, with respect to the same employee, an employer must make a return on Form W-2 under this section and also under § 31.6011(a)-4 or § 31.6011(a)-5 of this chapter (Employment Tax Regulations), or under § 1.6041-2 (relating to return of information as to payments to employees), such employer may make such returns on the same Form W-2 or on separate Forms W-2. In a case where an employer must file a Form W-3 under this section and also under § 31.6011(a)-4 or § 31.6011(a)-5 of this chapter (Employment Tax Regulations), the Form W-3 filed under such § 31.6011(a)-4 or § 31.6011(a)-5 shall also be used as the transmittal form for a return on Form W-2 made pursuant to the provisions of this section.

(2) *Definitions.* Terms used in subparagraph (a)(1) of this section and in section 79 and the regulations thereunder have the meaning ascribed to them in section 79 and the regulations thereunder.

(b) *Time and place for filing—(1) Time for filing—(i) General rule.* In a case where an employer must file Forms W-3 and W-2 under this section and also under § 31.6011(a)-4 or § 31.6011(a)-5 of this chapter (Employment Tax Regulations), the time for filing such forms under this section shall be the same as the time (including extensions thereof) for filing such forms under § 31.6011(a)-4 or § 31.6011(a)-5.

(ii) *Exception.* In a case where an employer is not required to file Forms W-3 and W-2 under § 31.6011(a)-4 or § 31.6011(a)-5 of this chapter, returns on Forms W-3 and W-2 required under paragraph (a) of this section for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

(iii) *Cross reference.* For extensions of time for filing returns, see section 6081 and the regulations thereunder.

(2) *Place for filing.* The returns on Forms W-3 and W-2 required under paragraph (a) of this section shall be filed pursuant to the rules contained in § 31.6091-1 of this chapter (Employment Tax Regulations), relating to the place for filing certain returns.